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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/420,321	10/18/1999	LARRY A. WESTERMAN	KLR:7146.044	2633
55648	7590	07/26/2006	EXAMINER	
KEVIN L. RUSSELL CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP 1600 ODSOWER 601 SW SECOND AVENUE PORTLAND, OR 97204			LUU, SY D	
			ART UNIT	PAPER NUMBER
			2174	

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/420,321

Applicant(s)

WESTERMAN ET AL.

Examiner

Sy D. Luu

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This communication is responsive to the Amendment filed May 9, 2006.
2. Claims 1-6 are pending in this application. Claim 1 is the sole independent claim. Claims 7-21 and 28-33 were cancelled. This action is made non-Final.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. The term "approximately" used in claims 1-3 is a relative term and is not defined by the claims, which render the claims indefinite. The specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The usage of this term is vague and fails to show positive assertiveness.
7. Claim 1 recites "said free from changing" on line 14. There is insufficient antecedent basis for this limitation in the claim. Does "said free from changing" refers to said graphic representation on line 5, or the interaction on line 11, or the scale on lines 10-11?

Art Unit: 2174

8. The phrases "said graphic representation is said free from changing" and "said scale is said altering" on line 14 of claim 1 are not meaningful and not interpretable in view of the context of the specification.

9. The phrase "said enable said alteration" on line 7 of claim 1 is grammatically awkward and the meaning is not clear.

10. The meaning of the phrases "wherein said size and said position of the graphic representation changes while the scale is free from changing when said interaction is free from being said approximately equal to said limit", and "wherein when said size and said position of said graphic representation is changed to reach said approximately equal to said limit then said graphic representation is said free from changing while said scale is said altering when changing said size and said position beyond said approximately equal to said limit" (emphasis added), as recited in claim 1, is grammatically confusing and not clear.

#### *Response to Arguments*

11. Applicants' arguments with respect to the amended claim 1 have been fully considered but they are not persuasive.

Applicants argue that the references, even if combined, fail to disclose the combination of a system where: (a) the size and the position of the graphic representation changes while the scale is free from changing when not approximately at the limit and where, (b) the size and position of the graphic representation is changed to reach approximately equal to the limit, then the graphic representation is free from changing while the scale is altering when changing the size and position beyond the approximate limit. [Emphasis Added]

Art Unit: 2174

The Examiner disagrees for the reason that the claim language does not recite what Applicants argue to be contained therein. For example, the emphasis notations as noted above are clearly not reflected in the claim language.

Furthermore, as noted in section 10 of the rejections under 35 USC § 112 above, the claim language is grammatically confusing while the meaning is not clear and not interpretable. If the limitations are meant to recite the invention features as described on page 8 of the specification, Applicants are encouraged to better clarify the claim language by incorporating the terms as being employed and supportable in the appropriate section of the specification as pointed out above. By clarifying the claim language, the invention would be better characterized according to the disclosure of the specification.

### *Inquires*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (571) 272-4064. The examiner can normally be reached on Monday - Friday from 7:300 am to 4:00 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (571) 272-4063.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Application/Control Number: 09/420,321

Page 5

Art Unit: 2174

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Sy D. Luu', is written over a horizontal line.

**SY D. LUU**  
**PRIMARY EXAMINER**  
**ART UNIT 2174**

SDL: 7/24/06